

TERMS AND CONDITIONS

USA V 090915 GNPD Academic

Mintel Group Ltd., an English corporation doing business as Mintel Americas with offices at 333 West Wacker Drive, Suite 1100, Chicago, Illinois 60606 (“Mintel”), will provide the Services to Licensee according to these Terms and Conditions.

1 DEFINITIONS

In these Terms and Conditions, the following terms shall have the following meanings:

1.1 Authorized Users

“Authorized Users” means current faculty and staff of Licensee (whether on a permanent, temporary, contract or visiting basis) and Students who (i) are permitted by the Licensee to access the Secure Network and (ii) have been issued by Mintel a password or other authentication.

1.2 Commercial Use

“Commercial Use” means use for the purposes of monetary reward or barter (whether by or for Licensee or an Authorized User) by means of the sale, resale, loan, transfer, hire or any other form of exploitation of the Services, excluding use of the Services in the course of research funded by a commercial organization, provided that the use for such funded research is as determined in Clause 3.2.3 only.

1.3 Conditions of Use

“Conditions of Use” means any conditions of use appearing on and governing use of the Website, as amended from time to time by Mintel, provided that (a) any conditions of use are consistent with, and not more restrictive than, this Agreement and (b) the language of these Terms and Conditions will govern and supersede any conflicting language in the conditions of use.

1.4 Content

“Content” means information comprised in the Services.

1.5 Content Segment

“Content Segment” means a discrete segment of information found in the Services, currently either a Record, category review, or Plan-It™ graph or table.

1.6 Contract

“Contract” means the entire agreement as between Mintel and Licensee, comprised of the Order

Form and these Terms and Conditions.

1.7 Fee

“Fee” means the fee set out in the Order Form and payable by Licensee for the Services. Local applicable sales or State taxes will be added to the Fee when invoiced, provided that if Licensee is exempt from taxation and provides to Licensor appropriate documentation of Licensee’s tax-exempt status, then Mintel will invoice no such taxes.

1.8 Licensee

“Licensee” means, unless otherwise specified on the Order Form, the individual legal entity specified on the Order Form as a purchaser of the Services.

1.9 Order Form

“Order Form” means the form, signed and dated on behalf of Licensee, accepting these Terms and Conditions, and which specifies, among other things, the Fee, format and level of Services, Sites, and the dates for the initial Subscription Period.

1.10 Premises

”Premises” means Licensee’s physical premises, including libraries operated by Licensee, as specified on the Order Form.

1.11 Record

“Record” means a single product profile contained in the Services, typically comprised of an image of the product and categories of information, such as Product Description, Ingredients, and Nutrition.

1.12 Secure Network

“Secure Network” means a computer network (whether a standalone network or a virtual network within the Internet) administered by Licensee and accessible only to Authorized Users, with the prior approval of Licensee, each of whose identity is authenticated at the time of login and periodically thereafter consistent with current best practice.

1.13 Services

“Services” means Mintel database research services and other Mintel-hosted information services provided by other publishers, branded as Global New Products Database or GNPD, and derivatives thereof, published from time to time by Mintel and made available on the Website, the contents of which relate to a variety of products, market sectors, and territories.

1.14 Students

“Students” means individual persons who currently are enrolled and in good standing with Licensee.

1.15 Website

“Website” means websites, including www.gnpd.com and other websites, owned and operated by Mintel that may be amended or deployed at alternate URL addresses by Mintel from time to time.

2 LICENSE AND PAYMENT

2.1 Subject to these Terms and Conditions, Mintel grants to Licensee the non-exclusive and non-transferable right:-

2.1.1 To give Authorized Users access to the Services via its Secure Network; and

2.1.2 To use the Services solely for the provision and furtherance of academic and personal study, but not for Commercial Use.

2.2 The license granted above shall commence on the date of signing the Order Form or such date as may be specified on the Order Form, and, subject to the provisions relating to early termination as set out in Clause 6, shall continue for a minimum period of twelve (12) months, or such other period as may be specified in writing on the Order Form, from the effective date and, unless terminated pursuant to Clause 6, shall automatically continue for consecutive twelve (12) month periods thereafter at no lesser level of annual financial subscription commitment, or such other periods as may have been agreed between the parties in writing on the Order Form (the “Subscription Period(s)”).

2.3 Licensee shall pay annual Fees to Mintel, first within thirty (30) days of signing the Order Form and then on each anniversary thereafter (or within thirty (30) days of the commencement of each subsequent Subscription Period provided for at Clause 2.2 above).

3 PERMITTED USES

The license granted at Clause 2.1 above permits Licensee and Authorized Users to do only the following acts:

3.1 Licensee may, subject to Clause 4 below and unless otherwise noted in the Order Form, only allow up to two (2) Authorized Users concurrent access to the Services via a Secure Network.

- 3.2 Each Authorized User may, subject to Clause 4 below:
 - 3.2.1 View, retrieve and display Content;
 - 3.2.2 [Reserved]
 - 3.2.3 Distil, précis, digest and analyse Content as part of a required project in an academic course or as part of an academic presentation or paper, with the source clearly identified;
 - 3.2.4 Except for archival purposes, print off single copies of Content Segments and use them, or distribute them to Authorized Users, for academic or personal purposes;
- 3.3 Authorized Users may additionally (always subject to Clause 4 below) incorporate up to twenty-five (25) Records in printed course or study packs for use by Authorized Users in the course of instruction. Each such item shall carry appropriate acknowledgement of the source. Course packs in non-electronic non-print perceptible form, such as audio or Braille, may also be offered to Authorized Users who, in the reasonable opinion of Licensee, are visually impaired.
- 3.4 Licensee and Authorized Users must at all times when accessing the Services abide by the Conditions of Use.

4 PROHIBITED USES

For the avoidance of any doubt, the license granted at Clause 2.1 above does not allow Licensee and Authorized Users to do any of the following acts:-

- 4.1 Remove or alter the Conditions of Use or the copyright notices or other means of identification or disclaimers as they appear on the Services.
- 4.2 Systematically make copies, electronic or otherwise, of multiple Content Segments for any purpose.
- 4.3 Provide, by electronic means or otherwise, to a user at another library, academic institution, or elsewhere, a retained copy of any Content Segment, except as permitted in Clauses 3.2.3 and 3.2.4.
- 4.4 Mount or distribute any Content on any electronic network or otherwise, including without limitation the Internet and the World Wide Web.
- 4.5 Use the Content for any Commercial Use.
- 4.6 Distribute the Content to anyone other than Authorized Users, except as permitted in

Clauses 3.2.3 and 3.3.

- 4.7 Publish, distribute or make available the Content, works based on the Content, or works which combine it with any other material, other than as expressly permitted in these Terms and Conditions.
- 4.8 Alter, abridge, adapt or modify the Content, except to the extent necessary to make it perceptible on a computer screen or as otherwise permitted in these Terms and Conditions to Authorized Users. For the avoidance of doubt, no alteration of the words or their order is permitted, except as permitted under Clause 3.2.3.
- 4.9 Allow use of the Service or Content to other branches or such similar establishments of Licensee.
- 4.10 The use of any Mintel consumer intelligence report or database research service containing Information Resources, Inc. (IRI) Infoscan data by (or disclosure to) a Non-Participating Retailer or its employees (or agents/professional advisors working on its account) is prohibited. A Non-Participating Retailer is a retailer and its subsidiaries each as defined by IRI, where it, or one of its associated companies, has declined to participate in IRI's Infoscan information service by not providing its data to IRI. A current written list of Non-Participating Retailers and subsidiaries (as notified to Mintel by IRI) is available from Mintel at any time, or as linked through from the Conditions of Use. As of the Start Date, Non-Participating Retailers are Aldi, Amazon, Costco, Dollar Tree, Lidl, Trader Joe's, and Whole Foods.

5 UNDERTAKINGS AND WARRANTIES

- 5.1 Mintel shall indemnify and hold Licensee harmless from and against any direct loss, damage, cost, liability or expense (including reasonable legal and professional fees) arising out of any third party legal action taken against Licensee claiming actual or alleged infringement of copyright or other proprietary or other intellectual property rights. This indemnity shall not apply if Licensee has amended the Content in a manner inconsistent with the original information or if Licensee has materially breached these Terms and Conditions.
- 5.2 Mintel shall make the Services available to Licensee and to Authorized Users over the world wide web via the Website.
- 5.3 Mintel shall also:-
 - 5.3.1 Use all reasonable efforts to ensure that its server has adequate capacity and bandwidth to support the usage of Licensee at a level commensurate with the standards of availability for information services of similar scope operating via the world wide web, as such standards evolve from time to time during the

Subscription Period(s);

- 5.3.2 Use all reasonable efforts to make the Services available to Licensee and to Authorized Users at all times, save for routine maintenance, and to restore access to the Services as soon as possible in the event of an interruption or suspension of the service.
- 5.3.3 Licensee hereby acknowledges that Mintel's and other hosted publisher's future publishing schedules are subject to modification from time to time, in common with standard industry practice.
- 5.4 Mintel shall provide usage information for Licensee's internal use only. If Mintel assigns its rights to another party under Clause 8.1 hereof, Licensee may at its discretion require the assignee either to keep such usage information confidential or to destroy it.
- 5.5 Access by Authorized Users to the Services is subject to a log-in protocol established by Mintel, but subject to modification from time to time at Mintel's sole discretion.
- 5.6
 - 5.6.1 Mintel will use all reasonable efforts to ensure that the Services and any software relating thereto provided by Mintel will perform in accordance with any Mintel user guide that is available to Licensee. IN THE EVENT OF ANY FAILURE OF THE SERVICES, MINTEL'S OBLIGATION SHALL BE LIMITED TO USING ITS REASONABLE EFFORTS TO REMEDY ANY DEFICIENCIES IN THE AFFECTED SERVICES, OR AT ITS OPTION, TO CANCELLING, CREDITING OR REFUNDING THE FEES DUE FROM LICENSEE IN RESPECT OF ANY PERIOD IN EXCESS OF FIVE (5) WORKING DAYS IN ANY CALENDAR YEAR FOR WHICH THE SERVICES HAVE FAILED TO PERFORM CORRECTLY IN ALL MATERIAL RESPECTS. THE OBLIGATION TO CORRECT DEFECTS OR CANCEL, CREDIT OR REFUND A PROPORTIONATE PART OF THE FEES PAYABLE BY LICENSEE FOR THE PRECEDING PERIOD OF TWELVE (12) MONTHS SHALL CONSTITUTE THE FULL EXTENT OF MINTEL'S LIABILITY IN RESPECT OF ANY LOSS OR DAMAGE SUSTAINED BY LICENSEE WHETHER CAUSED BY BREACH OF THESE TERMS AND CONDITIONS, MISREPRESENTATION, NEGLIGENCE OF MINTEL (OR ITS EMPLOYEES OR AGENTS) OR FROM ANY OTHER CAUSE, AND IN PARTICULAR, MINTEL SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, ECONOMIC OR OTHER DIRECT OR INDIRECT LOSS OR DAMAGE (INCLUDING BUT NOT LIMITED TO ANY DAMAGES PAYABLE TO A THIRD PARTY, LOSS OF PROFITS OR WASTED RESOURCES) SUFFERED BY LICENSEE, PROVIDED THAT IF FOR ANY REASON THIS PROVISION IS INVALID OR UNENFORCEABLE, THE MAXIMUM AGGREGATE LIABILITY OF MINTEL SHALL NOT EXCEED THE TOTAL FEES PAYABLE BY LICENSEE FOR THE PRECEDING PERIOD OF TWELVE (12) MONTHS. THE FOREGOING EXCLUSIONS AND LIMITATIONS OF LIABILITY SHALL NOT APPLY IN THE CASE OF DEATH OR PERSONAL

INJURY, OR IN THE CASE OF THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF MINTEL NOR IN THE CASE OF THIRD PARTY CLAIMS FOR COPYRIGHT INFRINGEMENT NOR FOR THE MISUSE, REMOVAL OR ALTERATION OF LICENSEE'S LOGOS OR SERVICE MARKS.

5.6.2 EXCEPT AS PROVIDED IN CLAUSE 5.6.1 ABOVE, LICENSEE AGREES THAT THE SERVICES ARE PROVIDED "AS IS"; MINTEL MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE ACCURACY, COMPLETENESS, OR CURRENTNESS OF THE INFORMATION INCLUDED IN THE SERVICES; AND MINTEL SPECIFICALLY DISCLAIMS ANY OTHER WARRANTY, EXPRESS OR IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. MINTEL SHALL NOT BE LIABLE ON ACCOUNT OF ANY SUCH ERRORS, OMISSIONS, DELAYS, OR LOSSES. LICENSEE AGREES THAT IN NO EVENT WILL MINTEL BE LIABLE FOR THE RESULTS OF LICENSEE'S USE OF THE SERVICES, LICENSEE'S INABILITY OR FAILURE TO CONDUCT ITS BUSINESS, OR FOR INDIRECT, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES (EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) ARISING FROM THE USE OF OR INABILITY TO USE THE SERVICES OR ANY OTHER PROVISION OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE, ANTICIPATED PROFITS OR BUSINESS, OR THE COST OF PROCURING SUBSTITUTE SERVICES. IN THE EVENT STATE LAW REGARDING EXCLUSION OR LIMITATION OF WARRANTIES OR DAMAGES MAY LIMIT THE APPLICABILITY OF THE ABOVE LIMITATIONS, THE TOTAL AGGREGATE LIABILITY OF MINTEL FOR ANY CLAIMS, LOSSES OR DAMAGES SHALL NOT EXCEED THE CHARGES PAYABLE BY LICENSEE FOR THE PRECEDING PERIOD OF TWELVE (12) MONTHS.

5.6.3 Licensee shall notify Mintel in writing immediately and exclusively at any time Licensee believes it may have discovered a potential or actual inaccuracy in any of the information included in the Services. Upon receipt of any such written notice from Licensee, Mintel will use all reasonable efforts to (i) investigate any such potential or actual inaccuracy and (ii), if necessary, rectify and correct any such inaccuracy so discovered.

5.7 Licensee acknowledges Mintel's (and in the case of hosted information, that of the providers of the hosted information services) ownership of any intellectual property rights (including all patents, trade marks, copyrights, database rights, confidential information, trade secrets and knowhow) that are utilized by Mintel in connection with its provision of the Services (the "Intellectual Property Rights"). In order to safeguard such Intellectual Property Rights, Licensee shall:-

5.7.1 Make reasonable efforts to inform Authorized Users of the importance of respecting the Intellectual Property Rights and Conditions of Use and of the sanctions which

Licensee imposes upon Authorized Users for failing to do so, in accordance with Licensee's disciplinary process;

- 5.7.2 Promptly enforce the disciplinary process in cases where it becomes aware that an Authorized User is not complying with this Contract;
- 5.7.3 [Reserved]
- 5.7.4 To the extent practicable, monitor compliance with these Terms and Conditions and the Conditions of Use, and promptly on becoming aware of any unauthorized use of the Services or other breach of the terms of these Terms and Conditions, inform Mintel in writing and take appropriate steps to ensure that such activity ceases and to prevent any recurrence;
- 5.7.5 Use reasonable efforts to ensure that Authorized Users do not divulge their passwords or other access information to any third party, provided that if any such password or other access information constitutes an e-mail address, then Licensee will permit Authorized Users to use only Licensee-issued e-mail addresses that (a) employ address nomenclature customarily used by Licensee and (b) are issued to current faculty and staff and to Students;
- 5.7.6 [Reserved]
- 5.7.7 Use all reasonable efforts to ensure that only Authorized Users are permitted access to the Services;
- 5.7.8 Investigate immediately upon Mintel's faxed or emailed notice to Licensee (such notice to be confirmed by Mintel in writing within two (2) working days) the occurrence of any unusual downloading activity by any Authorized User;
- 5.7.9 Provide Mintel wherever possible with the IP addresses, or range of IP addresses, of its computers/networks from which the Services may be accessed to allow Mintel to restrict access to Licensee's computers/networks.
- 5.8 NOTHING IN THESE TERMS AND CONDITIONS SHALL MAKE LICENSEE LIABLE FOR BREACH OF THE TERMS AND CONDITIONS BY ANY AUTHORIZED USER PROVIDED THAT LICENSEE HAS ABIDED BY THE PROVISIONS SET OUT AT CLAUSE 5.7 ABOVE AND PROVIDED THAT LICENSEE DID NOT CAUSE, KNOWINGLY ASSIST OR CONDONE THE CONTINUATION OF SUCH BREACH AFTER BECOMING AWARE OF AN ACTUAL BREACH HAVING OCCURRED.
- 5.9 Each party shall safeguard the intellectual property (including the Intellectual Property Rights), Confidential Information and proprietary rights of the other party. In particular, each party acknowledges that, other than the Conditions of Use, these Terms and Conditions including the information on the Order Form are hereby deemed to be confidential. Mintel reserves the right to include Licensee's name as a Licensee in its sales and marketing literature, but shall not use such fact to imply that Licensee in any

way endorses the Services in particular or Mintel in general. Licensee accepts that in the case of hosted information, Mintel shall share usage, pricing and other relevant information regarding Licensee with the supplier of such information.

6 TERMINATION

- 6.1 Except as otherwise agreed herein, either party may terminate the Contract by serving written notice at any time during the period of one (1) month prior to the month in which the then current Subscription Period (as defined in Clause 2) ends. In the event that notice is not so served, then unless otherwise agreed, the Fee shall be increased by the change in the Consumer Price Index during the Subscription Period just expired.
- 6.2 The Contract may also be terminated if the non-defaulting or solvent party gives written notice to the other in the following circumstances:-
 - 6.2.1 Licensee defaults in making payment of any Fee and fails to cure such default within ten (10) working days of Mintel's notification to Licensee; or
 - 6.2.2 Either party commits a material or persistent breach of any term of the Contract, including these Terms and Conditions, and fails to remedy the breach (if capable of remedy) within fourteen (14) days of notification in writing by the other party; or
 - 6.2.3 Either party becomes insolvent or becomes subject to receivership, liquidation or similar external administration.
- 6.3 Notwithstanding the foregoing, Mintel may terminate the Contract immediately without allowing a cure period if Licensee uses the Service for Prohibited Uses Clause 4.4, 4.6 and 4.10. Mintel may terminate the Contract immediately if Licensee having been served with reasonable notice of using the Services for one or more of the other Prohibited Uses as set out in Clause 4 above, then fails to remedy that breach(es) within a reasonable timeframe. When considering what is reasonable, both parties acknowledge that the more serious the actual or potential financial impact is upon Mintel, the shorter the cure period (if any) should be, but in any event the cure period shall not exceed seven (7) days.
- 6.4 On the date of termination Licensee shall immediately cease to distribute or make available the Services to Authorized Users. Notwithstanding termination, Licensee shall forthwith upon termination pay all Fees that are due and payable. For the avoidance of doubt, termination shall not affect the parties' ongoing obligations in this Agreement save for the obligations of Mintel post-termination to provide ongoing Services as set out at Clause 2.
- 6.5 On termination of the Contract due to a material and substantiated breach of any term thereof by Mintel, Mintel shall forthwith repay to Licensee a pro rata refund of the unexpired portion of the Fee.

- 6.6 Mintel reserves the right at any time to withdraw from Licensee either the entire Service, or any media channel, section, or data contained therein. Mintel shall give e-mail and/or facsimile and/or written notice to Licensee of any such withdrawal. In the event of such a withdrawal from the Services for reasons other than those covered elsewhere within this Contract, and the amount of material so withdrawn comprises ten percent (10%) or more of that licensed to Licensee as per the Order Form, Mintel shall immediately make a pro rata refund of the Fee and any sales taxes paid for that portion of the Service, as stated on the Order Form, taking into account the amount of material withdrawn, the length of time such material was unavailable to Licensee, and the remaining un-expired portion of the Subscription Period.

7 CONFIDENTIALITY

- 7.1 Each party undertakes to keep confidential, and not to disclose to any third party or to use itself, any confidential or secret information in any form directly or indirectly belonging or relating to the other party, its affiliates, its or their business affairs, disclosed to or received by the other party during the Term of the Contract (collectively, “Confidential Information”).
- 7.2 Each party undertakes to disclose Confidential Information of the other party only to those of its officers, employees, agents and contractors to whom and to the extent to which disclosure is necessary for the purposes contemplated under the Contract, and each such party agrees to take appropriate measures to ensure compliance by such officers, employees, agents and contractors with the terms of this Clause 7.
- 7.3 The above obligations of confidentiality and non-use shall not apply to information or material:-
- 7.3.1 which is named by the disclosing party prior to receipt by the receiving party as evidenced by documents in the possession of the receiving party at the time of disclosure; or
- 7.3.2 which, after receipt from the disclosing party, is disclosed to the receiving party by a third party having the legal right to do so; or
- 7.3.3 which is available to the public at the time of receipt; or
- 7.3.4 which becomes available to the public after receipt from the disclosing party, through no fault of the receiving party.
- 7.4 Injunctive Relief. Each party acknowledges that injury from improper disclosure of Confidential Information may be irreparable. Accordingly, the injured party is entitled to seek equitable relief, including a temporary restraining order and a preliminary injunction, without the posting of any bond or other security, in addition to all other remedies.

8 GENERAL

- 8.1 The Contract and the rights granted under these Terms and Conditions may not be assigned by either party to any other person or organization without the prior written consent of the other party, which consent shall not unreasonably be withheld. For the avoidance of doubt, Licensee shall have no right to sub-license any of its rights granted hereunder.
- 8.2 If rights in all or any part of the Services are assigned to another publisher/licensor, Mintel shall use its reasonable efforts to ensure that the material terms and conditions of these Terms and Conditions are maintained.
- 8.3 Variations to these Terms and Conditions are only valid and binding if they are recorded in writing and signed by both parties.
- 8.4 Any notices to be served on either of the parties by the other shall unless otherwise specified herein be delivered by hand or sent by U.S. certified or registered mail, return receipt requested, to Mintel at 333 W Wacker Drive, Suite 1100, Chicago, Illinois 60606, and that identified on the Order Form in the case of Licensee, or to such other address as notified by either party to the other as its address for the service of notices, and all such notices shall be deemed to have been received upon receipt if delivered by hand or upon confirmation of receipt if emailed or faxed or if mailed three (3) working days after deposit in the United States mail.
- 8.5 Neither party shall be liable in any way for failure or delay in performing its obligations under these Terms and Conditions if the failure or delay is due to causes outside the reasonable control of the party in default.
- 8.6 Licensee shall keep all records necessary to enable the verification of its compliance with the terms of these Terms and Conditions, particularly those terms set out in Clause 5.7, and agrees that Mintel shall have access to, and the right to examine upon having served reasonable written notice, Licensee's records during normal business hours.
- 8.7 Should Licensee acquire or merge with a business or other entity which is also a licensee of Mintel, then both agreements with Mintel shall run to the end of their respective subscription periods, after which point (assuming such acquisition or merger has been brought to Mintel's attention, which Licensee agrees to do as soon as practicable), the Fees payable shall be determined by reference to Mintel's current rate card at that time. The renewal of the combined agreement shall begin on the later of (i) the end of the Subscription Period of this Contract and (ii) the end of the subscription period under the other agreement. The agreement that expires first shall renew automatically until the later anniversary date, and the Fees payable under such renewed agreement, on a pro rata basis, shall be increased by five percent (5%) over the then-applicable Fees.

- 8.8 The failure of any party to enforce any provision on any one occasion shall not affect its right to enforce another provision or the same provision on another occasion.
- 8.9 In the event that any provision of the Contract is held to be invalid, the remainder of the provisions shall continue in full force and effect.
- 8.10 The Contract shall be governed by and construed in accordance with the internal law, and not the law of conflicts, of the State of Illinois, applicable to contracts made and wholly to be performed in that state.
- 8.11 Any dispute or controversy arising under this Contract shall be settled by arbitration to be held in the City of Chicago in accordance with the rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrator's award in any court having jurisdiction, and the parties consent to the jurisdiction of the United States District Court or any other court having situs within Chicago, Illinois for this purpose. Any process or other papers under this provision may be served outside the State of Illinois by U.S. certified or registered mail, return receipt requested, or by personal service, provided a reasonable time for appearance or response is allowed.